

# **WHAT JUDGES WISH YOU KNEW**

# **MASTERING LAW AND**

# **MOTION**

**AUGUST 6, 2025**

**ADR SERVICES, INC. IN HOUSE CLE PROGRAM**



**PRESENTED BY**  
**HON. VEDICA PURI (RET.)**



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## **CHEAT SHEETS:**

- CRCS APPLICABLE TO CERTAIN MOTIONS
- MOTION FOR SUMMARY JUDGMENT UPDATES
- GOOD FAITH SETTLEMENT MOTIONS & MOTIONS FOR SANCTIONS



# BRIEFS: DO IT

- **USE YOUR INTRODUCTION TO MAKE YOUR “ASKS.”**
- **SURPRISE -- THE NOTICE IS A GO TO DOCUMENT FOR THE COURT.**
- **START WITH YOUR STRONGEST ARGUMENTS. (For discovery mtns, help the Court help you by organizing document demands or rogs by category).**
- **MSJ/MSA Sep Stmts are supposed to contain material facts only, tied to the elements of a cause of action. Beltran v. Hard Rock (2023) 97 Cal.App.5th 865, 876.**
- **FOR COMPLEX OR LONG MOTIONS, PROVIDE THE COURT WITH BOUND, TABBED PAPERS.**
- **FOR DISCOVERY MTNS, DO NOT MAKE THE SEP STMT A “WALL OF WORDS.”**

# BRIEFS: DON'T DO IT

- **OVERUSE ALL CAPS, BOLD, UNDERLINE OR ITALICS.**
- **CUT AND PASTE MPAS INTO SEPARATE STATEMENT ON DISCOVERY MOTIONS.**
- **LESS TRULY IS MORE. DO NOT USE EVERY PAGE ALLOTTED JUST BECAUSE YOU CAN.**
- **COMPLAIN BITTERLY RE OPPOSING COUNSEL/EXPRESS VITRIOL TOWARDS THE OTHER PARTY.**
- **FLOUT THE FORMATTING RULES - WE KNOW WHEN YOU'VE SHRUNK THE FONT.**
- **BLINDLY USE AI WITHOUT DOUBLE AND TRIPLE CHECKING THE RESULTS.**

# ON YOUR FEET DOS

- **VIEW THE TENTATIVE RULING AS THE FIRST PART OF THE DIALOGUE WITH THE JUDGE.**
- **IF NO TENTATIVE, LEAD WITH: “YOUR HONOR, EVERYTHING I WOULD ARGUE IS IN MY PAPERS, UNLESS YOU HAVE QUESTIONS, WOULD IT BE OK TO reserve my right to respond to opp counsel?”**
- **Avoid repeating the same points over and over. We get it.**
- **Concede when there is no case on point. “YES, YOU ARE GOING TO HAVE TO MAKE NEW LAW.”**
- **BE PREPARED. KNOW YOUR FACTS INSIDE AND OUT. DON’T BE OFFENDED IF WE DON’T.**
- **ON AN IMPORTANT MOTION, THERE IS NO SUBSTITUTE FOR AN IN PERSON APPEARANCE.**

# ON YOUR FEET DONT'S

- **A SOLILOQUY.**
- **REGURGITATING/REPEATING WHAT'S IN YOUR BRIEF.**
- **ASKING THE JUDGE IF SHE'S READ THE BRIEFS.**
- **USE THE PHRASE "WITH ALL DUE RESPECT."**
- **PASSING THE BUCK, OWN THE GOOD/THE BAD/THE UGLY.**

# BASIC RULES

(CRC 2.100, ET SEQ; 3.1110-3.1116)

## MOTION FORMATTING

- Do NOT shrink the font size
- Do NOT decrease line spacing to fit page limit
- TOC/TOA are required if your brief is more than 10 pages
- Helpful hint – if your brief is exactly 10 pages, do a TOC!

## MOTION TIMING

Moving Papers	16 Court Days
Opposition Papers	9 Court Days
Reply Papers	5 Court Days

## COMMON EXAMPLES

Extension of time to answer (CRC 3.110)  
Amending pleadings  
Motion for OST  
CCP §437c(h) application  
Motion to dismiss (CCP §581(f))  
Stipulation to retain jurisdiction  
(CCP §664.6)

# *EX PARTE* PROCEDURES

Unless permitted by law, requires “an affirmative factual showing in a declaration containing competent testimony based on personal knowledge or irreparable harm, immediate danger, or any other statutory basis for granting relief ex parte.” (CRC §3.1202(c))

**REQUIRED:** notice; application; supporting declaration(s); the actual motion  
MPAs if it’s an OST; and proposed order



# JURISDICTIONAL MOTIONS

## **MOTION TO QUASH SERVICE OF SUMMONS**

CCP §418.10

## **MOTION TO QUASH FOR LACK OF PERSONAL JURISDICTION**

CCP §418.10(a)(1)

## **MOTION TO DISMISS FOR INCONVENIENT FORUM**

CCP §§418.10(a)(2), 410.30

## **CHALLENGING SUBJECT MATTER JURISDICTION**

(by demurrer, motion for judgment on the pleadings, summary judgment or affirmative defense only – not by a motion to quash)

## **MOTION TO DISMISS FOR DELAY IN PROSECUTION**

CCP §581, et seq.

# TRUE OR FALSE?

**If the issue of lack of subject matter jurisdiction is not raised at the outset of the case, it is waived.**

**FALSE**

Since lack of subject matter jurisdiction renders the proceedings void, the defect can be raised at any time. Failure to raise it in the pleadings does not waive the defect. (CCP § 430.80; see *Parrott v. Mooring Townhomes Ass'n, Inc.* (2003) 112 Cal.App.4th 873, 876.)

# TRUE OR FALSE?

**Filing an answer, demurrer and/or motion to strike together with a motion to quash constitutes a general appearance in the action.**

**FALSE**

Under CCP §418.10(e), added in 2002, a defendant or cross-defendant may make a motion to quash service of summons, to stay or dismiss on the ground of inconvenient forum, or to dismiss for delay in prosecution, and simultaneously answer, demur, or move to strike the complaint or cross-complaint. The answer, demurrer, or motion to strike will not be deemed to constitute a general appearance unless the court denies the motion to quash, and, if the motion is denied, the general appearance will not be deemed to have been made until entry of the order denying the motion. (CCP §418.10(e)(1).)

# PLEADING MOTIONS



## DEMURRER

CCP §430.10

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## MOTION FOR JUDGMENT ON THE PLEADINGS

CCP §438

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## MOTION TO STRIKE

CCP §§435, 436, 437

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## ANTI-SLAPP MOTION TO STRIKE

CCP §425.16

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# MEET & CONFER REQUIRE MENTS



## APPLY TO: DEMURRERS MOTIONS TO STRIKE

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CCP §§430.41, 435.5, 439(a)

- Meet and confer must be in person or by telephone; set forth in declaration
  - Automatic 30-day extension if unable to comply
  - Failure to comply not grounds for overruling or sustaining demurrer or motion
  - What will happen if meet and confer not done?
-



# TRUE OR FALSE?

**The court issues a tentative ruling sustaining defendant's demurrer to an amended complaint without leave to amend.**

**The morning of the hearing, plaintiff's counsel appears and advises the court that earlier that morning, he had filed a voluntary dismissal without prejudice of the action as to the demurring defendant.**

**The Court no longer has jurisdiction to rule on the demurrer – true or false?**

**FALSE**

Although a plaintiff may voluntarily dismiss an action at any time before “actual commencement of trial” (CCP §581(c)), the right is not absolute. Once a court has issued a tentative ruling sustaining a demurrer without leave to amend, the plaintiff may not avoid the ruling by filing a voluntary dismissal without prejudice.

*(Groth Bros. Oldmobile, Inc. v. Gallagher (2002) 97 Cal.App.4th 60; see also Franklin Capital Corp. v. Wilson (2007) 148 Cal.App.4th 187, 200-203.)*

# TRUE OR FALSE?

**Detailed written correspondence satisfies the “meet and confer” requirement for a demurrer as per CCP §430.41(a).**

**FALSE**

“The demurring party shall meet and confer in person or by telephone with the party who filed the pleading that is subject to demurrer for the purpose of determining whether an agreement can be reached that would resolve the objections to be raised in the demurrer.





# PROVISIONAL REMEDIES

## PETITION FOR TEMPORARY RESTRAINING ORDER

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CCP §527

## MOTION FOR PRELIMINARY INJUNCTION

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CCP §526

## APPOINTMENT OF A RECEIVER

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CCP §564, ET SEQ.

## WRIT OF ATTACHMENT

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CCP §481.010, ET SEQ.

## WRIT OF POSESSION

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CCP §512.010, ET SEQ.

# TROS

- *Ex Parte* application for TRO
  - Must be supported by declaration(s) (CRC §3.1204)
    - Notice to opposing party
    - Showing of irreparable harm
  - Will great or irreparable injury result to the applicant before the matter can be heard on notice? (CCP §527(c))

# PRELIMINARY INJUNCTION

- OSC issues, either with or without TRO; or
- On notice motion
- If OSC, be sure to set forth:
  - Time and manner of service
  - Briefing schedule
  - Expiration date of TRO (CRC 3.1150)



# TWO-FACTOR TEST

- Moving party must show **both**:
  - Reasonable probability of prevailing on the merits (*Butt v. State of California* (192) 4 Cal.4th 668, 678);
  - The interim harm that the plaintiff would be likely to sustain if the injunction were denied outweighs the harm the defendant would be likely to suffer if the preliminary injunction were issued (*Smith v. Adventist Health System/West* (210) 182 Cal.App.4th 729, 749)

# PURPOSE OF PRELIMINARY INJUNCTION

- Will issue only if both factors are satisfied
  - (see *Cohen v. Board of Supervisors* (1985) 40 Cal.3d 277, 289 [“Even if the trial court had found for appellants on the ‘likelihood of success on the merits’ factor, it nevertheless could have refused to issue a preliminary injunction if it found that the interim harm to appellants did not outweigh the interim harm to respondents”])
- Purpose is to preserve the status quo until a final determination of the merits of the action (*Continental Baking Co. v. Katx* (1968) 68 Cal.2 512, 528)

# PUBLIC POLICY

- Other considerations:
  - When injunctive relief is sought, consideration of public policy is not only permissible but mandatory. (*Saltonsall v. City of Sacramento* (2014) 231 Cal.App.4th 837, 854)
  - In order to overcome general rule against enjoining public officers or agencies from performing their duties, plaintiff must make a “significant showing of irreparable injury.” (*Tahoe Keys Property Owners’ Assn. v. State Water Resources Control Board* (1994) 23 Cal.App.4th 1259, 1471.)



# DISCOVERY MOTIONS: TYPES OF MOTION



## **MOTION TO COMPEL INITIAL OR FURTHER DISCOVERY RESPONSES**

CCP §2030.010, et seq.

## **MOTION TO QUASH SUBPOENA**

CCP §1987.1

## **MOTION FOR PROTECTIVE ORDER**

CCP §§2017.020, 2019.030

## **MOTION TO COMPEL DEPOSITION**

CCP §2025.260

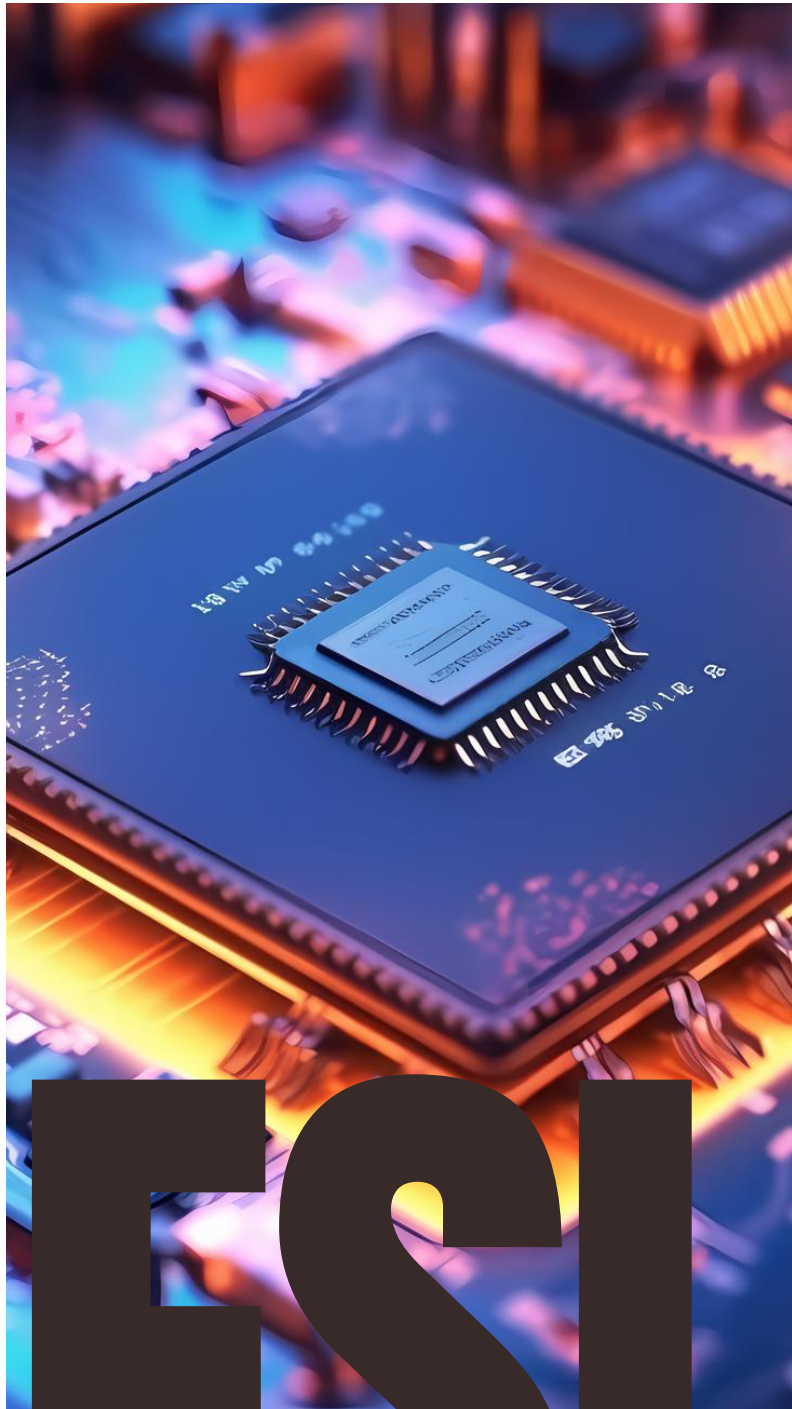
## **MOTION TO COMPEL COMPLIANCE WITH SUBPOENA**

CCP §2025.480

# PRACTICE TIPS



- Organize your requests for the court
- One of the biggest mistakes is not properly noticing the adverse party when seeking sanctions. You must:
- Identify the type of sanctions being sought and indicate who is to be sanctioned (person, party, attorney)
- If you are asking for a monetary penalty, support the request with an affidavit
- Consider the appointment of a Discovery Referee



# ESI

- CCP §2016.020 defines ESI:
  - “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities
  - “Electronically stored information” means information that is stored in an electronic medium
  
- CCP §2031.010(e) governs a demand for ESI
  - A party may demand that any other party produce and permit the party making the demand, or someone acting on that party’s behalf, to inspect, copy, test, or sample electronically stored information in the possession, custody, or control of the party on whom demand is made.
  - CCP §2031.240(a) governs how to respond to a demand for ESI

# SAFE HARBOR

CCP §2023.030 (f)

## APPLIES

Electronically stored information was altered or destroyed before the party in possession and/or control of the information was objectively aware that the ESI would be relevant to anticipated future litigation.

## DOES NOT APPLY

ESI was altered or destroyed when the party in possession and/or control of the information was under a duty to preserve the evidence because the party was objectively aware the ESI would be relevant to anticipated future litigation, meaning the litigation was reasonably foreseeable.

Litigation is reasonably foreseeable when it is “probably” or “likely” to arise from a dispute or incident, but not when there is no more than the mere existence of a potential claim or the distant possibility of litigation.





# WHAT DOES REASONABLY FORESEEABLE MEAN

**FACT INTENSIVE INQUIRY ON A CASE-BY-CASE BASIS**

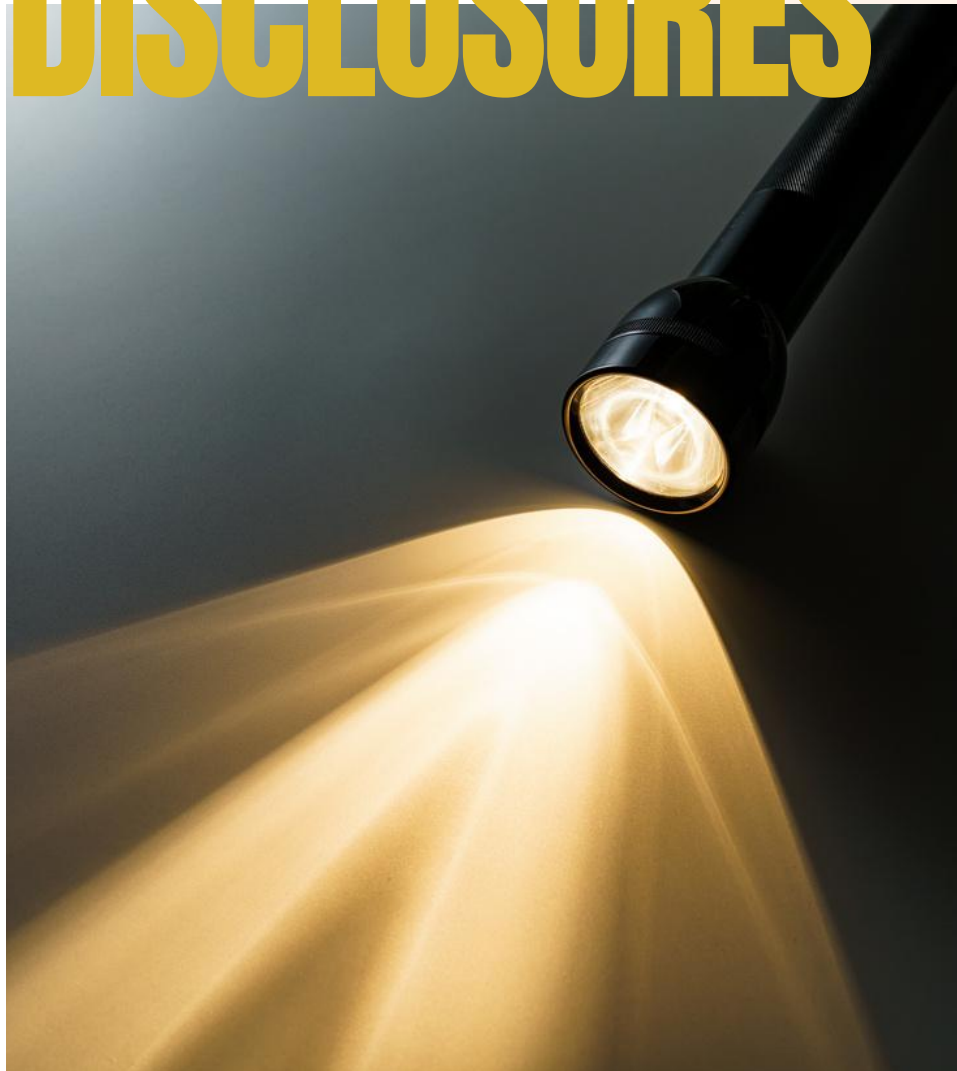
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**DOES NOT REQUIRE THAT FUTURE LITIGATION BE IMMINENT OR PROBABLE OR  
EVEN “CERTAIN.” *Victor Valley v. Superior Court of SAN BERNARDINO  
COUNTY* (2023) 91 CAL. APP. 5TH 1121, 1149.**

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# NEWish CCP §2016.090 INITIAL DISCLOSURES



- Only applies to cases filed on or after January 1, 2024
- CCP §2016.090 says unless stipulated otherwise by all parties
  - Within 60 days of a demand filed by any party
  - **Each party** that has appeared, **including the party that made the demand**, must provide the other parties with an initial disclosure that includes all of the following information:

**WITNESS INFO & SUBJECT MATTER OF THEIR TESTIMONY**

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**IDENTIFICATION OF DOCUMENTS**

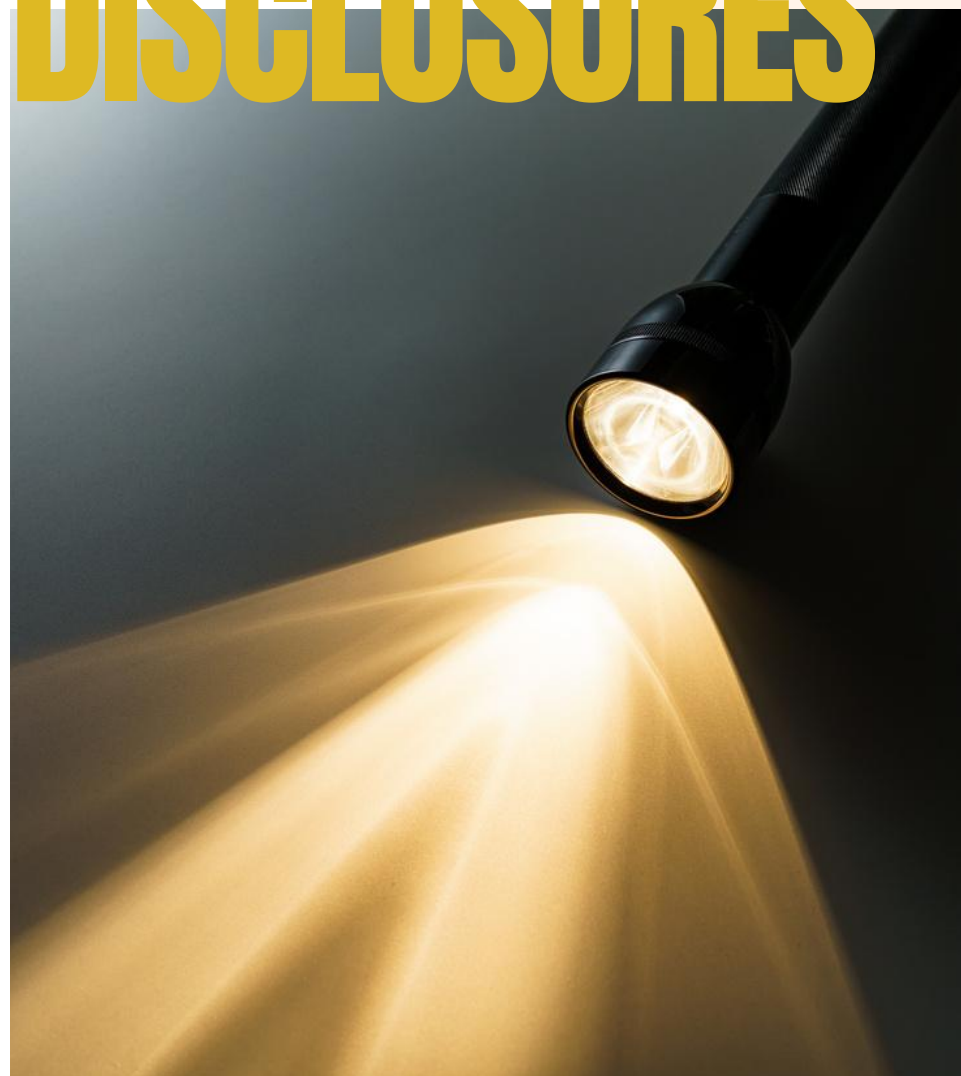
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**INSURANCE POLICY INFORMATION**

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**SEE FULL TEXT IN ATTACHED NEW CCP §2016.090 INITIAL DISCLOSURES CHEAT SHEET**

# NEWish CCP §2016.090 INITIAL DISCLOSURES



## The Scope of the Disclosures

“A party must make its initial disclosures based on the information then reasonably available to it and is not excused from making the disclosures because it has not fully investigated the case, because it challenges the sufficiency of another party's disclosures, or because another party has not made its disclosures.” C.C.P. 2016.090(a)(2)

C.C.P. 2016.090(a)(3) re supplementation or correction of disclosures – allows a party to issue supplemental demand 2x before initial trial setting and 1x after the initial trial setting

C.C.P. 2016.090(a)(5) requires verification of disclosures.  
C.C.P. 2016.090(a)(4) re: enforcement – the court can on its own motion compel further disclosures or a party can file a motion.

**SEE FULL TEXT IN ATTACHED NEW CCP §2016.090 INITIAL DISCLOSURES CHEAT SHEET**

# NEWish CCP §2016.090 INITIAL DISCLOSURES

**DOES NOT APPLY TO:**

**SELF REPRESENTED PARTIES**

**UNLAWFUL DETAINER CASES**

**FAMILY LAW CASES**

**PROBATE CASES**

**SMALL CLAIMS CASES**

**SEE FULL TEXT IN ATTACHED NEW CCP §2016.090 INITIAL DISCLOSURES CHEAT SHEET**



# DISPOSITIVE MOTIONS

## MOTION FOR SUMMARY JUDGMENT

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CCP §437c

## MOTION FOR SUMMARY ADJUDICATION

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CCP §437c(f)

# NEW DEADLINES FOR MSJ'S

Type of Filing	Old Filing Deadline	New Filing Deadline
Motion	75 days before the hearing	<u>81</u> days before the hearing
Opposition	14 days before the hearing	<u>20</u> days before the hearing
Reply	5 days before the hearing	<u>11</u> days before the hearing

**SEE:**

CCP §473c, subds. (a)(2), (b)(2), (b)(4).

**SEE FULL TEXT IN ATTACHED NEW DEADLINES & RULES FOR MSJS CHEAT SHEET**



# YES OR NO?

**Can the Court grant leave to amend when ruling on a motion for summary judgment?**

**YES**

A defendant's motion for summary judgment necessarily includes a test of the sufficiency of the complaint. If summary judgment is sought based on a curable defect in the complaint, it can be treated as a motion for judgment on the pleadings and leave to amend granted. (*People ex rel. Dept. of Transportation v. Outdoor Media Group* (1993) 13 Cal.App.4th 1067, 1074.)

The court may consider an unpled affirmative defense if the complaint alleges facts supporting the defense and the defense is fairly “raised and met” in the summary judgment papers. (*Wang v. Nibbelink* (2016) 4 Cal.App.5th 1, 10 [disapproved on another ground].)

# IMPORTANCE OF WHAT YOU PUT INTO THE SEPARATE STATEMENT

This cut-and-paste approach to the preparation of a separate statement has its dangers for a moving party asserting multiple defenses because the separate statement effectively concedes the materiality of whatever facts are included. Thus, if a triable issue is raised as to any of the facts in [such a] separate statement, the motion must be denied!" [Citation.]" ([Nazir v. United Airlines, Inc. \(2009\) 178 Cal.App.4th 243, 252 \[100 Cal.Rptr.3d 296\]](#) [criticizing the inclusion in the separate statement of nonmaterial facts for background, foundational, information or other purposes].)

*Salazar v. Thomas* (2015) 236 Cal.App.4th 467, 476 (footnote 6).

# WHAT IS REQUIRED FOR A CONTINUANCE OF A SUMMARY JUDGMENT OR ADJUDICATION MOTION BASED ON CCP §437C(H)?

- Continuance of a summary judgment hearing is not mandatory when no affidavit is submitted or the necessary showing is not made. (*Menges v. D.O.T.* (2020) 59 Cal.App.5th 13, 25-26.)
- The party moving for a continuance must show “facts essential to justify opposition may exist.” Such request can be made through affidavits accompanying the opposition itself, or “by ex parte motion at any time on or before the date the opposition response to the motion is due.”
- Waiting until after the opposition is due – or making the request at the hearing - is almost certainly a losing strategy, even when the need for a continuance is the result of a defendant’s gamesmanship in discovery. (*Park v. First American Title Co.* (2011) 201 Cal.App.4th 1418, 1428.)

# TRUE OR FALSE?

**Even if properly formatted, the Court is not required to rule on all objections asserted in conjunction with a summary judgment or adjudication motion.**

**TRUE**

In granting or denying a motion for summary judgment or summary adjudication, the court need rule only on those objections to evidence that it deems material to its disposition of the motion. Objections to evidence that are not ruled on for purposes of the motion shall be preserved for appellate review. (Code Civ. Pro. §437c(q).)



# TRUE OR FALSE?

**If the due date for a summary judgment motion falls on a weekend or holiday, the filing deadline is not extended to the next Monday or Court day?**

**TRUE**

Statutes which extend the time within which an act must be completed by one day when the last day to perform the act falls on a Sunday or holiday do not extend the time for an act that must be performed “not less” or “not later” than a given number of days before a designated time. (See *Steele v. Bartlett* (1941) 18 Cal.2d 573, 574.)

# TRUE OR FALSE?

The court may not shorten the 81-day notice period for a summary judgment or adjudication motion without the parties' consent.

TRUE

CCP §437c(a) gives the court power to shorten time on other summary judgment time requirements, but not on the 81-day notice of hearing. (*McMahon v. Superior Court* (2003) 106 Cal.App.4th 112, 116.) “[T]he motion shall be heard no later than 30 days before the date of trial, unless the court for good cause orders otherwise....” [CCP § 437c, subd. (a)]

# GENERATIVE AI

## *MATA V. AVIANCA, INC.*

*“Within 14 days of this Order, Respondents shall send via first-class mail a letter individually addressed to each judge falsely identified as the author of the fake “Garghese”, “Shaboon”, “Petersen”, “Martinez”, “Durden” and “Miller” opinions. The letter shall identify and attach this Opinion and Order, a transcript of the hearing of June 8, 2023 and a copy of the April 25 Affirmation, including the fake “opinion” attributed to the recipient judge.*

## *LACEY V. STATE FARM GEN. INS. CO.*

*A final note. Directly put, Plaintiff’s use of AI affirmatively misled me. I read their brief, was persuaded (or at least intrigued) by the authorities that they cited, and looked up the decisions to learn more about them - only to find that they didn’t exist. That’s scary. It almost led to the scarier outcome (from my perspective) of including those bogus materials in a judicial order. Strong deterrence is needed to make sure that attorneys don’t succumb to this easy shortcut.”*

## *QUINTEROS V. HARBOR DISTRIBUTING, LLC*

*“Plaintiff shall serve a copy of this Order on any Judge of this Court before whom they appear in any action pending or filed in this Court within one year from the date of entry of this Order.”*





**CHEAT  
SHEETS  
ATTACHED**

**CRCS APPLICABLE TO CERTAIN MOTIONS**

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**MOTION FOR SUMMARY JUDGMENT  
UPDATES**

---

**GOOD FAITH SETTLEMENT MOTIONS &  
MOTIONS FOR SANCTIONS**

---

**ARTIFICIAL INTELLIGENCE COURT  
DECISIONS**

---



**THANK  
YOU**



**HON. VEDICA PURI (RET.)**

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